

ARKANSAS SUPREME COURT

No. 09-277

DAVID WILLIAMS
Petitioner

v.

GOVERNOR MIKE HUCKABEE, ET
AL.
Respondents

Opinion Delivered May 7, 2009

PRO SE MOTION FOR RULE ON
CLERK TO FILE PLEADINGS
WITHOUT CERTIFIED RECORD
[CIRCUIT COURT OF PULASKI
COUNTY, CV 2007-822, HON. ALICE
GRAY, JUDGE]

MOTION DENIED.

PER CURIAM

On March 2, 2009, petitioner David Williams, who is also known as David H. Williams, tendered to this court a pro se motion to belatedly lodge an appeal without a certified record. He also tendered a petition for writ of certiorari and an appellate brief containing an addendum. Our clerk correctly declined to file the pleadings without a certified record of the lower-court proceedings. On March 18, 2009, petitioner filed the instant motion for rule on the clerk seeking leave to proceed in this court without a certified record.

The genesis of this action is a pro se complaint that petitioner filed against numerous defendants in Pulaski County Circuit Court.¹ The complaint sought a declaratory judgment, claimed a violation of the Arkansas Civil Rights Act, citing Arkansas Code Annotated § 16-123-105 (Repl.

¹The complaint filed in the circuit court below initially named the defendants as former Governor Mike Huckabee, Post-Prison Transfer Board Chairman Leroy Brownlee and Larry Norris, Director of the Arkansas Department of Correction. The complaint also listed six John Doe and Jane Doe defendants who comprised the Post-Prison Transfer Board. In the petition for writ of certiorari tendered to this court, petitioner also named current Arkansas Governor Mike Beebe, and included the actual names of the Post-prison Transfer Board members, John Feltz, Bill Walker, Lynn Story, Carolyn Robinson and John Belken, as defendants in the lawsuit.

2006), and alleged a taxpayer action based on the Arkansas Constitution, article 16, § 13. The complaint primarily concerned granting applications for clemency or a pardon. It also contained an objection to the alleged *ex post facto* application of Act 498 of 1999 and contended that the Arkansas Department of Correction improperly and erroneously modified the felony-class status of petitioner's 1981 conviction for capital murder.

The circuit court judge granted the defendants' motion to dismiss and entered an order on April 28, 2008, that dismissed the complaint with prejudice. Petitioner timely filed a notice of appeal from the order. He thereafter untimely tendered a record to this court more than ninety days from the date of the notice of appeal.² Ark. R. App. P.–Civ. 5(a). Further, the record that he tendered was uncertified. Arkansas Rule of Appellate Procedure-Civil 7(a) requires a record on appeal to be certified by the clerk of the circuit court to be a true and correct copy of the record.

Petitioner now asks this court to assume jurisdiction of the matter without the required record. However, this court does not proceed without a certified record where one is clearly required. Without a certified record, we are left to rely on petitioner's statements and copies of documents that may or may not be true and accurate copies of the material filed in the circuit court as a foundation for assuming jurisdiction.

The responsibility to transmit the certified record to this court rests with an appellant as the person seeking the appeal. Ark. R. App. P.–Civ. 7(b). Moreover, it is not the responsibility of the circuit clerk, circuit court or anyone other than a petitioner to perfect an appeal, even if the petitioner is proceeding *pro se* and found to be an indigent for appeal purposes. *Sullivan v. State*, 301 Ark.

²The uncertified documents tendered to this court indicate that petitioner attempted to obtain an extension of time in which to lodge the record on appeal, but the circuit court denied the motion as being untimely filed. *See* Ark. R. App. P.–Civ. 5(b). The order also denied petitioner's request to proceed *in forma pauperis* on appeal.

352, 784 S.W.2d 155 (1990) (per curiam). Here, there is no basis for petitioner to proceed in this court without a certified record.

Motion denied.